

## SENATE BILL NO. 40

INTRODUCED BY MCGEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A BOARD OF COUNTY COMMISSIONERS TO CREATE A RURAL SPECIAL IMPROVEMENT DISTRICT UPON RECEIPT OF A PETITION CONTAINING THE CONSENT OF ALL OWNERS OF PROPERTY TO BE INCLUDED IN THE DISTRICT; EXEMPTING THE ~~RESOLUTION OF INTENTION TO CREATE THE DISTRICT AND THE~~ RESOLUTION OF INTENTION TO CREATE THE DISTRICT AND THE RESOLUTION TO CREATE THE DISTRICT FROM NOTICE, HEARING, AND PROTEST PROVISIONS IF CREATION OF THE DISTRICT IS THE RESULT OF THE PETITION; AND AMENDING SECTIONS 7-12-2102, ~~7-12-2105~~, 7-12-2105, 7-12-2109, AND 7-12-2113, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-12-2102, MCA, is amended to read:

**"7-12-2102. Authorization to create rural improvement districts -- property owners may petition for creation.** (1) Whenever the public interest or convenience may require, the board of county commissioners ~~is hereby authorized and empowered to~~ may order and create special improvement districts outside of the limits of incorporated towns and cities for the purpose of building, constructing, or acquiring by purchase one or more of the improvements of the kind described in 7-12-4102, in or for the benefit of the special improvement district.

(2) The board of county commissioners may order and create a special improvement district upon the receipt of a petition to create a special improvement district that contains the consent of all of the owners of property to be included in the district.

~~(2)~~(3) The board of county commissioners may order and create special improvement districts covering projects abutting the city limits and include properties inside the city where the rural improvement district abuts and benefits that property. Property owners within the proposed district boundaries inside the city may not be included in the rural special improvement district if 40% of those property owners protest the creation of the rural special improvement district. The property inside the city must be treated in a similar manner as to improvements, notices, and assessments as the property outside the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the rural special improvement district prior to passing the resolution of intention or resolution creating the rural special improvement district. A copy of the resolution of

intention and the resolution creating the rural special improvement district must be provided to the city clerk upon the passage of the respective resolutions."

~~Section 2. Section 7-12-2105, MCA, is amended to read:~~

~~"7-12-2105. Notice of resolution of intention to create district -- hearing -- exception. (1) Upon having passed the resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage of the resolution of intention as provided in 7-1-2121.~~

~~(2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the proposed district listed in the owner's name upon the last completed assessment roll for state, county, and school district taxes.~~

~~(3) (a) The notice must describe the general character of the improvement or improvements proposed to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the method or methods by which the costs of the improvements will be assessed, and designate the time when and the place where the board will hear and pass upon all protests that may be made against the making or maintenance of the improvements or the creation of the district.~~

~~(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-2182:~~

~~(i) the county general fund may be used to provide loans to the revolving fund; or~~

~~(ii) a general tax levy may be imposed on all taxable property in the county to meet the financial requirements of the revolving fund.~~

~~(c) The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.~~

~~(4) The provisions of this section do not apply to a resolution of intention to create a district that is passed upon receipt of a petition as provided in 7-12-2102(2)."~~

**SECTION 2. SECTION 7-12-2105, MCA, IS AMENDED TO READ:**

**"7-12-2105. Notice of resolution of intention to create district -- hearing -- exception.** (1) Upon having passed the resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage of the resolution of intention as provided in 7-1-2121.

(2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the proposed district listed in the owner's name upon the last-completed assessment roll for state, county, and school district taxes.

(3) (a) The notice must describe the general character of the improvement or improvements proposed to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the method or methods by which the costs of the improvements will be assessed, and designate the time when and the place where the board will hear and pass upon all protests that may be made against the making or maintenance of the improvements or the creation of the district.

(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-2182:

(i) the county general fund may be used to provide loans to the revolving fund; or

(ii) a general tax levy may be imposed on all taxable property in the county to meet the financial requirements of the revolving fund.

(c) The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.

(4) The provisions of this section do not apply to a resolution of intention to create a district that is passed upon receipt of a petition as provided in 7-12-2102(2)."

**Section 3.** Section 7-12-2109, MCA, is amended to read:

**"7-12-2109. Right to protest creation or extension of district -- exception.** (1) At Except as provided in subsection (2), at any time within 30 days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for the work proposed in the resolution may make written protest against the proposed work or against the extending or creation of the district to be assessed, or both. The protest must be in writing, identify the property in the district owned by the protestor, and be signed by all owners of the property. The protest must be delivered to the county clerk, who shall endorse on the protest document the date of its receipt by the county clerk.

(2) The provisions of subsection (1) do not apply if a resolution of intention to create the district is a result of a petition submitted as provided in 7-12-2102(2).

~~(2)~~(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner

1 of fee simple title to the property.

2 (b) The term does not include a tenant of or other holder of a leasehold interest in the property."

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4 **Section 4.** Section 7-12-2113, MCA, is amended to read:

5 **"7-12-2113. Resolution creating district -- power to order improvements.** (1) Before ordering any  
6 of the proposed improvements, the board of county commissioners shall pass a resolution creating the special  
7 improvement district in accordance with the resolution of intention ~~therefore~~ introduced and passed by the  
8 board.

9 (2) The board ~~shall be deemed~~ is considered to have acquired jurisdiction to order improvements  
10 immediately upon the occurrence of the following conditions:

11 (a) when no protests have been delivered to the county clerk within ~~45~~ 30 days after the date of the first  
12 publication of the notice of the passing of the resolution of intention;

13 (b) when a protest ~~shall have~~ has been found by ~~said the~~ board to be insufficient or ~~shall have~~ has been  
14 overruled; ~~or~~

15 (c) when a protest against the extending of the proposed district ~~shall have~~ has been heard and denied;  
16 or

17 (d) when a resolution creating the district is passed upon receipt of a petition as provided in  
18 7-12-2102(2)."

19 - END -